



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

NOV 05 2009

Ref: 8P-W-WW

Brian Heckenberger  
Montana Department of Environmental Quality  
Permitting and Compliance Division  
P.O. Box 200901  
Helena, MT 59620-0901

Re: Draft Permit for Stormwater Discharges  
Associated with Municipal Separate Storm  
Sewer Systems (MTR-040000)

Dear Mr. Heckenberger:

Thank you for providing the proposed permit for Stormwater Discharges Associated with Municipal Separate Storm Sewer Systems (MS4s). I have reviewed the draft permit and find it generally acceptable, however, I have the following comments that should be addressed before it is issued as a final permit.

1. Given the presence of some municipalities with significant seasonal populations in the state of Montana (e.g., ski resorts, Yellowstone National Park), the pace of development in these areas, and the proximity of some municipalities with seasonal populations to high quality water bodies, the Division should maintain an aggressive schedule to develop criteria and designate seasonally impacted municipalities for inclusion in this permit.
2. Due to the small number of MS4s covered under this general permit, it would be advisable to issue individual permits. This would allow the Division to directly enforce specific permit conditions tailored to the geographic location, water quality concerns, administrative structure, and strengths of each regulated MS4. Should this permit be reissued as a general permit, specific numeric requirements should be included directly in the permit for each of the minimum measures to allow for a more enforceable and effective permit.
3. **Part II.A.1.** The determination of whether the permit conditions meet the Maximum Extent Practicable (MEP) standard is one which is made by the Permitting and Compliance Division. It is important to note that MS4s are required to fully meet all of the terms and conditions in the permit and not just meet permit terms and conditions to the Maximum Extent Practicable. Therefore, it would be advisable to remove all language related to the MEP standard from the permit.

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4. **Part II.A.1.** It is stated in the permit that, "Implementation of Best Management Practices (BMPs) consistent with the provisions of the SWMP... [and the permit]... shall constitute compliance with the requirement of reducing pollutants to the MEP." In addition, it is the responsibility of the MS4 operator to submit an application describing specific control measures which are provided in the Stormwater Management Program Description and the Measurable Goals for the municipality. Upon review by the Water Quality Control Permitting Division, these controls define the Maximum Extent Practicable (MEP) technology based standards for permit compliance. Since these technology based standards are included in the application and not the permit, it is necessary to public notice and/or provide these materials in a manner which is consistent with the Division's regulations for permit issuance.
5. **Part II. B. 3. vi.** This part addresses categories of non-storm water discharges which must be evaluated for the presence of illicit discharges. For clarification, it may be advisable to specifically authorize specific categories of non-stormwater discharges under the MS4 permit provided that they are not identified as significant sources of pollutants to the small MS4.
6. **Part II. B. 4.** For a construction oversight program to be effective, there should be a specific requirement regarding how frequently construction sites need to be inspected and procedures for how recalcitrant violators are reported to the Division.
7. **Part II. B. 5. a. vii.** EPA applauds the Division's inclusion of a numeric criterion for runoff from newly developed and re-developed impervious surfaces. However, the language requiring its implementation "where such practices are practicable" is subject to interpretation. This language should be revised to be more specific.
8. **Part II. B. 5. a. vii.** In order to meet the numeric criterion for runoff from newly developed and re-developed impervious surfaces, the permit requires a process to be in place by January 1, 2012. An additional permit requirement to submit interim measures, legal authorities, and design review procedures for review by the Division would be appropriate given the significance of this permit condition and the need for an iterative discussion on how it can be achieved.
9. **Part II. B. 5. a. vii.** As part of the plan required to be submitted by January 1, 2012, the new development planning procedures could be expanded to address sources of pollution in addition to the one acre threshold for new construction, as many of these sources are likely to be significant contributors of pollutants to MS4s. Other sources for which design criteria could be required include:
  - a. Industrial parks;
  - b. Commercial strip malls;
  - c. Retail gasoline outlets;
  - d. Restaurants;

- e. Parking lots;
- f. Automotive service facilities;
- g. Street and road construction; and
- h. Projects located in, adjacent to, or discharging to environmentally sensitive areas.

10. **Part II. B. 6.** One enforceable permit condition which could be added for municipal operations is a frequency under which certain types of municipal operators must be trained.

If you have any questions with regard to this letter, please contact Greg Davis of my staff at 303-312-6314, or E-mail [davis.gregory@epa.gov](mailto:davis.gregory@epa.gov).

Sincerely,



Sandra A. Stavnes  
Chief, Wastewater Unit  
USEPA Region 8

